

## European Community Comments on Codex Circular Letter CL 2007/38-FL

### **Subject: Labelling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification / Genetic Engineering**

The European Community and its 27 Member States (ECMS) appreciate the opportunity to provide comments on the "Labelling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification/Genetic Engineering" and respectfully wish to submit the following comments:

#### *The rationale for adopting or not adopting a particular approach*

The Working Group on Labelling of Foods and Food Ingredients obtained through certain techniques of Genetic Modification/Genetic Engineering that convened in Oslo, Norway on 6-7 February identified seven different approaches to GM labelling that were seen as representative among Codex member states.

Out of these seven approaches, the European Community (EC) has adopted the first one, i.e. *mandatory GM labelling as such of all foods derived from or containing ingredients derived from organisms produced using gene technology (food consisting of, containing or produced from GMOs)*.

According to this approach, all food that consists of, contains or is produced from GMO has to be labelled as such irrespective of the presence of modified protein or DNA. The objective of this legislation is to allow the consumer to make an informed choice about whether the food he is purchasing is GM or not. It is not the objective of this legislation to stigmatize GM food as being somehow unsafe. In fact, only GM food that has been thoroughly evaluated for its safety by the European Food Safety Authority may be placed on the market in the Community.

In the past, before the new legislative framework entered into force in the EC in 2003, the EC had adopted the second approach (*mandatory GM labelling as such of GM foods and food ingredients where novel DNA and/or protein are present in the final food*). However, based on demands expressed in numerous surveys by a large majority of consumers, the EC extended the labelling requirements to foods produced from GMO, irrespective of the presence of modified DNA or protein. This labelling facilitates informed choice and precludes potential misleading of consumers as regards the methods of manufacture or production of the food. It is in line with the general labelling requirements in the EC, that provide that labelling must not mislead the purchaser as to the characteristics of the foodstuff and among other things, in particular, as to its nature, identity, properties, composition, method of production and manufacturing.

It is further more in line with the Codex mandate from 1991 in which the Commission requested the CCFL to provide guidance on how the fact that a food was derived from modern biotechnologies could be made known to consumers.

The EC recognises thus the consumers' right to information and labelling as a tool for making an informed choice as regards genetically modified food.

It should be noted that the GM labelling as currently implemented in the EC is not the only example for a labelling based on production process. Codex itself has developed General Guidelines for use of the term "halal" that contains specific process-based criteria for the use of the term "halal" on food.

Also the labelling of irradiated food, as foreseen in the legislation of many Codex member countries, informs the consumer about a process applied to the food (i.e. irradiation) irrespective of whether or not this process has caused a material change in the food. In addition, there are a series of other voluntary labelling schemes that achieve similar objectives, for instance labelling of food as organic, quality labels or labels indicating that a food has been produced with particular respect for animal health (dolphin safe) or animal welfare (eggs from free range hens).

Regarding approach number 5 (voluntary labelling guidelines for foods that are or are not products of genetic engineering) the ECMS would like to note that in preparation of the current legislation, the European Commission had examined the merits and disadvantages of a number of different labelling approaches, including the one that would complement the mandatory labelling provisions that were in force at the time (based on the presence of DNA or protein resulting from the genetic modification) with a Community-wide voluntary "GMO-free" (or similarly phrased) scheme.

The European Commission's preparatory work, including experiences in some Member States, revealed that voluntary "GMO-free" (or similarly phrased) schemes were beset by a number of technical, commercial and other difficulties. It also became evident that consumers in the EC were primarily interested in knowing whether their food was produced from GMOs or contained ingredients produced from GMOs. Consumers clearly prefer to be informed about what is in products and not about what is not in products. For this reason, the European Commission abstained from proposing a GMO-free labelling scheme at Community level. Some Member States have however introduced provisions at national level to make sure that when such a labelling is used, it is truthful and not misleading.

***The communications strategies used in communicating information to the public on foods and food ingredients obtained through certain techniques of genetic modification/genetic engineering***

The ECMS believe that GM labelling is actually the first tool to provide the consumer with accurate information on the products he is purchasing enabling him to make a free choice. GM labelling enhances transparency throughout the food chain and might ultimately contribute to restore the consumer's confidence in the application of gene technology in the agro-food sector.

In addition, the EC has, via its Research Framework Programmes given financial support to a series of projects in the area of life sciences and biotechnology. One of these projects has led to the establishment of a website [www.gmo-compass.org](http://www.gmo-compass.org) on which independent science journalists give information about GM foods and bio-safety research.

The European Commission has placed information relating GM food on the website of the Commission Directorate-General for Health and Consumer Protection (DG SANCO) [http://ec.europa.eu/food/food/biotechnology/index\\_en.htm](http://ec.europa.eu/food/food/biotechnology/index_en.htm). This website gives a comprehensive overview on the legislation on GM food (and feed) in place in the

Community, as well as on the GM food (and feed) that are authorised. It also provides a document with questions and answers on GMO regulation in the EU.

Moreover, the national authorities attempt to provide objective information to consumers on techniques of genetic modification of food and food ingredients, their implications on health, the legal requirements regarding their production, marketing and labelling on their respective homepages and via informative brochures. Some EC Member States (e.g. Spain) have also put in place information modules in school programmes.

***The undertaking of an analysis of current Codex texts, particularly Codex labelling texts, to evaluate whether or not these texts supply sufficient guidance on the labelling of foods derived from genetic modification/genetic engineering***

The EC and its Member States (ECMS) wish to thank the United States, Canada and Nigeria for their background paper on the Labelling of Foods Obtained through Certain Techniques of Genetic Modification / Genetic Engineering. This paper provides an overview on how current Codex texts relate to the labelling of food and food ingredients obtained through certain techniques of genetic modification/genetic engineering. The ECMS agree with the authors of the paper that the presence of an allergen in a GM food or any significant differences in composition, characteristics, nutritional properties or intended use should be labelled in accordance with the relevant Codex provisions.

However, as the analysis clearly shows, the existing Codex texts on labelling present two serious shortcomings: On the one hand, they leave GM labelling to the voluntary domain, and on the other hand, they do not give guidance about how the fact that a food has been derived from modern biotechnology should be made known to the consumer as requested by the Codex Commission in 1991. For these reasons the ECMS are of the view that existing Codex labelling texts do not supply sufficient guidance on the labelling of foods derived from genetic modification. The comprehensive analysis carried out by the United States, Canada and Nigeria represents a strong argument to focus the CCFL work on the above-identified shortcomings.

***The consideration of appropriate ways forward, taking into account the result of the analysis undertaken in 2 and the suggestion of the possible ways forward identified by the Oslo WG***

The ECMS are of the opinion that it would be very useful for Codex members, and especially for developing countries, to develop a list of overarching horizontal principles with the objective to provide guidance to those involved in the development of national legislations. These principles would not aim at establishing which of the seven approaches is the most appropriate. Even if some of these principles already exist, it would also be very useful to collect in a single document the relevant provisions contained in various Codex texts.